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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,930	12/19/2001	Paul W. Dow	12821.12US01	2558

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EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
	3671

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/027,930

Applicant(s)

DOW, PAUL W.

Examiner

Alicia M Torres

Art Unit

3671

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***Period for Reply****A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) \_\_\_\_ is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 1-4,6-13 and 15-18 is/are rejected.

7) Claim(s) 5,10,14 and 17 is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_

***Specification***

1. The disclosure is objected to because of the following informalities:  
line 5 of page 4 should read "a portion of the reel";  
the word "apartment" in line 7, page 7 should be changed to --apart--.  
Appropriate correction is required.

***Claim Objections***

2. Claim 17 is objected to because of the following informalities: the limitation "the axle" in line 6 lacks antecedent basis. Appropriate correction is required.  
Claim 10 is objected to because of the following informalities: the ";" in line 1 should be changed to a --:--. Appropriate correction is required.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lohmann.

Lohmann discloses guard for a crop collecting apparatus wherein the following method is inherent, the method comprising the steps of:

providing a substantially straight elongate guard member (6) having mounting means (20) at a first end and a second end (see figure 3);

mounting the first end to the crop collecting apparatus (1);

coiling the guard member (6) in an arcuate configuration around a portion of the head (11);

mounting the second end to the crop collecting apparatus (1), as per claim 7; and

wherein the guard member (6) is mounted under tension, as per claim 8; and

wherein the mounting means (20) comprise ends with orifices formed therein, as per claim 9.

5. Claim 17 rejected under 35 U.S.C. 102(b) as being anticipated by Lohmann.

Lohmann discloses a crop collecting apparatus wherein the following method for accessing a crop collection reel, the reel having at least one guard mounted at a first end and a second end in a flexed condition arcing around a portion of the reel under tension is inherent, the method comprising the steps of:

detaching only the first end of the guard (6) and releasing the first end of the guard (6), wherein the guard (6) returns to a straight configuration upon release of the first end, pulling the guard (6) from around the axle (11) and extending outward from the attached second end.

6. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Lohmann.

Lohmann discloses a crop collecting reel for mounting to a crop collection apparatus, the reel comprising:

an arbor (11);

a plurality of tines (3), including tine sets having tines (3) spaced apart radially around the arbor (11), wherein the tine sets are axially spaced along the arbor (11); a housing comprising a plurality of substantially straight elongate guards (6) intermediate adjacent tine sets, wherein the guards (6) are configured for mounting to the crop collection apparatus in an arcing configuration.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lohmann in view of Fritz.

Lohmann discloses a guard for a crop collecting apparatus, the guard comprising: a substantially straight elongate member having, each end having at least one mounting orifice formed therein; wherein the elongate member is coiled in an arcing configuration when mounted and returns to a substantially straight configuration when removed; and wherein the guard (6) is adapted for mounting under tension, as per claim 2; and wherein the mounting orifice (20) has a countersunk portion, as per claim 3; and wherein the elongate member (6) includes a plurality of mounting orifices (20), as per claim 6.

However, Lohmann fails to disclose wherein the substantially straight elongate member has tapered ends.

Fritz discloses a similar device wherein the ends of the guard are tapered (see figure 3, and column 3, lines 11-19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the tapered ends of Fritz on the guard apparatus of Lohmann in order to promote lateral tine deflection and permit the tine to be cammed into the appropriate slot.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lohmann and Fritz as applied to claim 1 above, and further in view of Engel.

The device is disclosed as applied to claim 1 above. However, the combination of Lohmann and Fritz fails to disclose wherein the guard comprises a polyethylene member.

Engel discloses a tine stripper (46) wherein the stripper (46) comprises a polyethylene member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the material of Engel on the guard of Lohmann and Fritz in order to obtain a high wear tolerance.

10. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallagher et al., hereafter Gallagher, in view of Lohmann.

Gallagher discloses a crop collection apparatus, comprising:  
a frame (11);  
wheels (8) mounted to the frame (11);

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a pick up head (unnumbered) supported on the frame (11) and having a rotatable reel (24);

a plurality of tines (22) mounted to the reel (24);

a housing (A) extending around the reel (24), including a plurality of guards (12), wherein the guards (12) are intermediate adjacent tines (22) and alternate with the tines (22).

However, Gallagher fails to disclose wherein the guards comprise substantially straight elongate members; and

wherein the guards are under tension when mounted, as per claim 11; and

wherein the elongate members include mounting orifices with countersunk portions, as per claim 12; and

wherein the elongate members includes a plurality of mounting orifices, as per claim 16.

Lohmann discloses a similar device wherein the guards (6) comprise substantially straight elongate spring steel strip members; and

wherein the guards (6) are under tension when mounted, as per claim 11; and

wherein the elongate members (6) include mounting orifices (20) with countersunk portions, as per claim 12; and

wherein the elongate members (6) includes a plurality of mounting orifices, as per claim 16.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the straight elongate members of Lohmann on the device of Gallagher in order to allow for easy maintenance.

11. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lohmann in view of Engel.

Lohmann discloses the device as applied to claim 9 above. However, Lohmann fails to disclose wherein the elongate members comprise polyethylene, as per claim 13; and wherein the elongate members comprise ultra-high molecular weight polyethylene, as per claim 15.

Engel discloses a tine stripper (46) wherein the stripper (46) is comprised of ultra-high molecular weight polyethylene (see column 2, lines 16-19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the material of Engel on the guard of Lohmann in order to obtain high wear tolerance.

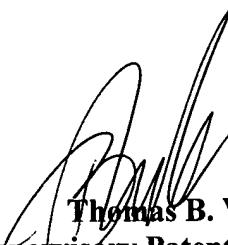
### *Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shepley, Cofer, Benton et al. have been cited as of interest.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-305-3597.



Thomas B. Will  
Supervisory Patent Examiner  
Group Art Unit 3671

AMT  
May 8, 2003